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Legal and Social Reality Analysis of Same-Sex Marriage in Indonesia and Thailand

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ABSTRACT

Marriage, as a fundamental institution, plays an important role in determining civil rights and the legal status of citizens; therefore, its regulation reflects social, cultural, and religious values, as well as human rights principles. This study aims to compare the legal regulation of same-sex marriage in Thailand by examining the absence of legal recognition of same-sex marriage in Indonesia and assessing how social and cultural realities influence the acceptance and effectiveness of law in both countries. This research employs a normative juridical method, using statutory and conceptual approaches, by examining Law Number 1 of 1974 and Constitutional Court decisions in Indonesia, as well as the Marriage Equality Act 2025 and the Civil and Commercial Code in Thailand. The findings show that Indonesia explicitly limits marriage

to heterosexual relationships based on the first principle of Pancasila, namely "Belief in the One and Only God", thereby providing no legal recognition or civil rights for same-sex couples, including inheritance rights, marital property rights, and administrative protection. In contrast, Thailand provides full legal recognition of same-sex marriage through progressive legal reform, guaranteeing equal rights in civil registration, inheritance, social security, and adoption, although challenges in administrative implementation remain. Comparatively, the effectiveness of same-sex marriage regulation is strongly influenced by the level of social acceptance: Indonesia is shaped by Pancasila, which emphasizes morality, religion, and culture, whereas Thailand demonstrates that social openness is a key factor in the successful implementation of legal reform.

INTRODUCTION

Background of the Study

Marriage is universally understood as a core institution that forms the basic unit of society, namely the family, which is in accordance with Article 28B paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Therefore, the regulation and legal recognition of the institution of marriage must be implemented based on the principles of legal certainty and equality before the law as guaranteed under Article 28D and Article 28I paragraph (2) of the 1945 Constitution of the Republic of Indonesia.[1] In many legal systems, marriage carries various rights and obligations such as inheritance, family recognition, child custody, and the legal status of partners before the state and society. How a country defines and regulates marriage reflects its position on social, cultural, and religious values, and the civil rights of its citizens.

In Indonesia, the primary regulation governing marriage is Law No. 1 of 1974 on Marriage.[2] Article 1 defines marriage as a physical and spiritual bond between a man and a woman as husband and wife, with the purpose of forming a happy and eternal family based on the Almighty God.[3] Article 2 further stipulates that a marriage is valid when performed according to the religious laws and beliefs of each party and recorded in accordance with statutory regulations.[4] This framework explicitly restricts the definition of marriage to heterosexual couples. As a result, same-sex marriage is not legally recognized in Indonesia, and any attempt to register or recognize such unions, whether domestic or foreign, does not meet the normative requirements of the Marriage Law. Consequently, same-sex couples face legal uncertainty in fundamental matters such as civil rights, inheritance, partner recognition, child-related rights, civil registration, and legal protection. This situation reveals a gap between universal human rights principles, including the right to form a family

1 Priscyllia, F. (2022). Same-sex marriage in the perspective of natural law in Indonesia. Jatiswara, 37(2), 152–162.

2 Tim BIP. (2017). Law of the Republic of Indonesia Number 1 of 1974 on Marriage. Bhuana Ilmu Populer.

3 Puniman, A. (2018). Marriage law under Islamic law and Law No. 1 of 1974. Yustitia Journal, 19(1).

4 Sanger, J. P. (2015). The legal consequences of a valid marriage based on Article 2 of Law No. 1 of 1974 on Marriage. Lex Administratum, 3(6).

and the right to privacy, and Indonesia's positive law. Several human rights arguments emphasize that every individual has the right to determine their orientation and form a family without discrimination. Several human rights perspectives emphasize that every individual has the right to determine their sexual orientation and form a family without discrimination.[5] The principles of equality and non-discrimination, which form the core of human rights, position every individual, including those from the LGBT community as equal legal subjects. According to the report "Being LGBT in Asia: A Participatory Review and Analysis of the Legal and Social Environment for LGBT Civil Society" by the United Nations Development Programme UNDP in collaboration with the United States Agency for International Development USAID, it provides an important contribution to understanding the realities of LGBT life in the Asian region.[6] By reviewing the human rights situation of LGBT communities in certain Asian countries, UNDP and USAID aim to strengthen the capacity of LGBT civil society, raise public awareness, and provide evidence-based recommendations to governments and other stakeholders. These efforts affirm that the protection and promotion of LGBT rights are an integral part of the sustainable development, democracy, and social justice agenda.

In the Southeast Asian context, legal developments in other countries show contrasting progress. Thailand's Marriage Equality Act 2025, effective since January 2025, makes Thailand the first country in Southeast Asia to legalize same-sex marriage. The regulation replaces gender-specific terms such as husband and wife with gender-neutral terms such as spouse or partner, allowing same-sex couples to obtain full legal status and rights equal to heterosexual couples.[7] These rights include marriage registration, property division, inheritance, social security benefits, joint adoption, and socio-legal recognition of partnerships. This highlights a sharp contrast between two countries with different cultural and legal systems. Indonesia maintains a traditional and normative definition of marriage, while Thailand adapts its legal framework to the evolving realities of diverse identities and sexual orientations within society. These differences are not only legal but also involve cultural, social, moral, religious, and societal norms.[8]

Social realities in each country present unique challenges. In Indonesia, religious and cultural norms play a very strong role as an inseparable part of Pancasila as the national ideology, particularly the first principle, "Belief in the One and Only God", in shaping public perceptions of sexual orientation and family structure.[9] Consequently, same-sex marriage is often considered a sensitive issue and faces widespread rejection, as none of the religions recognized in Indonesia permit same-sex marriage, which ultimately leads to social stigma, discrimination, and legal exclusion of LGBTQ+ communities.[10] In Thailand, although the law has changed, social acceptance remains an ongoing process. Legal reform does not automatically ensure uniform implementation across all societal and institutional levels. Moreover, despite legal permission for adoption, specific

5 Manik, T. S. et al. (2021). Eksistensi LGBT di Indonesia dalam kajian perspektif HAM, agama, dan Pancasila. Jurnal Kewarganegaraan, 18(2), 84–91. <https://doi.org/10.24114/jk.v18i2.23639>.

6 USAID. (n.d.). Being LGBT in Asia: A participatory review and analysis of the legal and social environment for LGBT civil society.

7 Wong, E. M. Y. (2025). Same-sex marriage legislation and implementation: Marital intention and barriers to actualization among same-sex couples in Asia. Journal of Marriage and Family, 87(4), 1407–1432. <https://doi.org/10.1111/jomf.13018>.

8 Zagoto, Y. S. S. P. (2025). Komparasi perlindungan HAM terhadap LGBT di Swiss dan Indonesia. Jurnal ISO: Jurnal Ilmu Sosial, Politik dan Humaniora, 5(2), 12. <https://doi.org/10.53697/iso.v5i2.2848>.

9 Syam, H. M. (2021). Ideology and media framing: Stigmatisation of LGBT in media coverage in Indonesia. Jurnal Komunikasi: Malaysian Journal of Communication, 37(1), 59–73. <https://doi.org/10.17576/JKMJC-2021-3701-04>.

10 Ingding, I. (2025). Global norms and local resistance: The concentration of LGBTQ+ groups in three southern Thai border provinces. Soshum: Journal of Social and Humanities, 15(2), 117–126.

regulations governing joint adoption by same-sex couples remain unclear, creating further legal and social ambiguity.[11]

In many countries, the recognition of same-sex relationships continues to generate legal, social, and moral tensions. In regions with strong religious and conservative cultural values, same sex marriage remains largely unrecognized and is often opposed on the grounds of morality, religion, or public order.12 This situation reflects a broader global dynamic between the development of human rights norms and deeply rooted societal values. Given these circumstances, this research becomes particularly relevant. A comparative study of positive law and social realities regarding same-sex marriage in Indonesia and Thailand not only reveals regulatory and formal legal aspects but also explains how social, cultural, and religious norms influence legal implementation and the lived experiences of same-sex couples. This analysis is expected to offer a comprehensive picture of the challenges, opportunities, and policy implications related to human rights protection, equality, and inclusivity in both countries. The findings of this study are expected to contribute to the development of legal scholarship, particularly in relation to the comparative analysis of same-sex marriage regulation in Thailand and the absence of legal regulation in Indonesia. Accordingly, this analysis may enrich the understanding of the dynamics of legal regulation within different social and cultural contexts, including Thailand's experience, which can be viewed as a comparative reference while still taking into account the distinctive cultural characteristics of Indonesia.

A relevant previous study titled "Perkawinan Sesama Jenis Perspektif Hukum Indonesia dan Hukum Thailand" by Difa Fibra Aisyah and Muhammad Teguh Syuhada discusses legal comparisons of same-sex marriage in Indonesia and Thailand with an emphasis on legal policy and its impact on future generations. The study is doctrinal in nature, as its emphasis is primarily on the applicable legal policies and their impact on future generations, without examining in depth the role of social and cultural norms or the implementation of laws in the daily lives of same-sex couples. However, the study lacks a deeper analysis of the role of social and cultural norms and the implementation of laws in the daily lives of same-sex couples. This research expands the discussion by analyzing the interaction between positive law and social realities, offering a more comprehensive perspective on challenges, opportunities, and policy implications for human rights protection and inclusivity. Accordingly, the study on the "Legal and Social Reality Analysis of Same-Sex Marriage in Indonesia and Thailand" becomes significant, as it aims to provide a comprehensive juridical analysis and offer substantive contributions to the development of family law and human rights discourse in Indonesia.

Research Problem

Considering the foregoing background, this study may be formulated into the following two principal research questions:

- How do the positive laws of Indonesia and Thailand regulate same-sex marriage and their implications for protecting the rights of couples?
- How do social and cultural realities influence the acceptance and practice of same-sex marriage in both countries and affect legal effectiveness?

Purpose of the Study

Based on the issues that have been identified, the objectives of this study may be formulated to include both academic and practical aims, namely:

11 Sinthuphan, J., Ruendhawil, T. (2022). A battle for equal marriage rights in Thailand. In *Protection of Minority Rights in Asia: Country Cases* (p. 68).

12 Hafid, A. et al. (2025). Penyimpangan seksual menelusuri kontroversi dalam identitas LGBT. Populer: Jurnal Penelitian Mahasiswa, 4(1), 67–82. <https://doi.org/10.58192/populer.v4i1.2956>.

- To analyze and compare how the positive laws of Indonesia and Thailand regulate same-sex marriage, including their legal implications for the protection of the rights of same-sex couples in each country;
- To examine how social and cultural realities influence the acceptance and practice of same-sex marriage in Indonesia and Thailand, as well as their impact on the effectiveness of legal regulations governing such relationships.

METHODOLOGY

This research employs a normative juridical method aimed at examining and identifying legal norms, principles, and statutory provisions that form the basis for analyzing legal issues related to the regulation of same-sex marriage in Indonesia and Thailand. The primary focus of the study is to understand how the positive laws in both countries regulate the legal status of same-sex marriage and the implications for the protection of couples' rights, including civil registration, inheritance, family status, and civil recognition. The research applies a conceptual approach and a statutory approach. The conceptual approach is used to discuss principles of equality, human rights protection, and the social realities that influence the formation and implementation of laws relating to same-sex marriage.[13] The statutory approach is used to examine relevant legal instruments, such as Law Number 1 of 1974 on Marriage and the decisions of the Constitutional Court in Indonesia, as well as the Marriage Equality Act 2025 and the Civil and Commercial Code in Thailand. The data collection method used in this study is library research by reviewing, recording, and analyzing various written sources, including legislation, academic literature, journals, and previous research findings.[14]

13 Amiruddin, Asikin, H. Z. (2006). Introduction to legal research methods. Jakarta: PT Raja Grafindo Persada, 118.

14 Ibrahim, J. (2008). Theory and methodology of normative legal research. Jakarta: Banyumedia, 310.

FINDINGS AND DISCUSSION

1. THE REGULATION OF SAME-SEX MARRIAGE UNDER THE POSITIVE LAWS OF INDONESIA AND THAILAND AND ITS IMPLICATIONS FOR THE PROTECTION OF COUPLES' RIGHTS

The regulation of same-sex marriage reflects fundamental differences between Indonesia and Thailand, both in terms of the legal definition of marriage, the mechanisms of state recognition, and the legal consequences accessible to couples.[15] In Indonesia, the primary legal framework governing marriage is Law Number 1 of 1974 on Marriage. Article 1 of the Law explicitly defines marriage as a physical and spiritual bond between a man and a woman. This definition is not merely administrative but embodies Indonesia's legal philosophy, which places religious and moral values as the core foundation of the marriage institution. This provision is reinforced by Article 2, which requires that a marriage is valid only if conducted according to the religious laws of the parties, a condition that in practice only recognizes heterosexual marriage, as no major religion in Indonesia authorizes same-sex unions. Consequently, religious doctrine becomes a dual filter that strictly limits marriage to the union of a man and a woman.[16]

This restrictive stance has been reinforced through the jurisprudence of the Constitutional Court in Decision No. 46/PUU-XIV/2016 on the definition of legitimate children and Decision No. 24/PUU-XX/2022 concerning the petition to expand the meaning of "husband and wife",

15 Devina et al. (2024). Bedah fenomena LGBT ditinjau menurut pendekatan socio-legal. Indonesian Journal of Law and Justice, 1(3). <https://doi.org/10.47134/ijlj.v1i3.2121>.

16 Nuraeni, R., Tampubolon, M. T., Atmoro, A., Habib, H., Handono, T. (2024). Same-sex marriage: A review of rights and obligations under the Marriage Law. Jurnal Syntax Admiration, 5(10), 4207–4218. <https://doi.org/10.46799/jsa.v5i10.1640>.

the Court consistently affirmed that same-sex marriage is incompatible with the values of Pancasila, public morality, and national identity. The Court argued that expanding the definition of marriage or spousal relationships falls outside its authority, as such matters belong to the legislative domain.[17] These decisions solidify a heteronormative understanding of marriage and close the door to any constitutional interpretation that would recognize same-sex relationships.

As a result, same-sex couples in Indonesia do not have a legally recognized family status. Family status can only arise between a man and a woman after entering into a valid marriage as stipulated in Law No. 1 of 1974 concerning Marriage, particularly Article 1, which defines marriage as a physical and spiritual bond between a man and a woman as husband and wife to form a happy and everlasting family (household) based on the belief in the One and Only God. This provision confirms that marriage is only recognized in heterosexual relationships, thereby giving rise to legal consequences in the form of state-recognized rights and obligations.[18] This condition results in same-sex couples lacking access to essential civil and administrative rights, such as automatic inheritance rights, joint property ownership, authority in medical decision-making, joint adoption, civil registration, and eligibility for social security benefits, including family protection within the national health insurance system, pension benefits, and employment social security programs.[19]

In the framework of international law, particularly referring to Article 1(1) of the International Covenant on Civil and Political Rights (ICCPR), every state has the right to self-determination, including the authority to determine legal policies in accordance with its social values, cultural context, and legal system, provided that human rights are respected.[20] In the Indonesian context, the regulation of marriage reflects the implementation of this principle by taking into account the religious and cultural values living within society, in line with the first principle of Pancasila.

In practice, the state does not discriminate against the fundamental rights of its citizens, but rather stipulates that the validity of marriage must comply with applicable legal requirements, including the recognition of marriage as a union between a man and a woman as husband and wife, as well as adherence to the religion embraced by the parties. Accordingly, the absence of legal recognition of same-sex marriage is not viewed as a restriction imposed by the state, but rather as a consequence of the requirements for a valid marriage derived from religious norms and the first principle of Pancasila, which form part of the national legal system.[21] In this regard, the state would, in principle, provide legal recognition and legitimacy should there be religious norms acknowledged within the Indonesian legal system that allow for such arrangements, thereby ensuring that the legal construction of marriage remains within the boundaries of prevailing constitutional, social, and religious values.[22]

In contrast, Thailand has taken a progressive step through significant legal reforms with the enactment of the Marriage Equality Act 2025, amending the Civil and Commercial Code to ensure equal rights for all citizens regardless

17 Dedihasriadi, L. O., Hsieh, J.-L., Umar, W. (2022). Same-sex marriage as a human rights freedom in Indonesia: The perspective of Pancasila and the Marriage Law. Jambura Law Review, 4(2). <https://doi.org/10.33756/jlr.v4i2>.

18 Winardy, G. C. Brata, E. Septiana. (2023). LGBTQ Related Intervention in Indonesia: A Literature Review. Psychological Research on Urban Society, 6(1), Article 6. <https://doi.org/10.7454/proust.v6i1.1120>.

19 Novita, O. (2021). Marriage rights for LGBT persons: Legality under Indonesian law. Jurnal Ilmiah Dunia Hukum, 6(1), 30–33. <https://doi.org/10.35973/jidh.v6i1.2572>.

20 An-Na'im, A. A. (2019). Human rights and cultural relativism revisited. The International Journal of Human Rights, 23(7), 1163–1180. <https://doi.org/10.1080/13642987.2018.1538123>.

21 Nurlaelawati, E. (2017). Modernization, tradition and identity: The Kompilasi Hukum Islam and legal practice in Indonesia. Amsterdam University Press. <https://doi.org/10.5117/9789462980703>.

22 Asshiddiqie, J. (2020). Pancasila and constitutional interpretation in Indonesia. Constitutional Review, 6(2), 151–170. <https://doi.org/10.31078/consrev621>.

of sexual orientation. This reform is not merely symbolic; it restructures the normative framework of Thai family law by removing gendered terms such as "husband and wife" and replacing them with the gender-neutral term "spouses".23 This terminological shift carries broad legal implications as it grants same-sex couples equal access to the marriage institution, which was previously heteronormative.[24] Thailand has therefore reframed sexual orientation from a moral issue into a domain of civil rights protected by the state.

Legal recognition under this regulation brings comprehensive rights to same-sex couples that were previously unattainable within the legal system. Through the Marriage Equality Act 2025, same-sex spouses now enjoy equal rights in civil registration, joint property ownership, automatic inheritance without requiring special arrangements, access to insurance and state social welfare benefits, and full recognition of joint adoption. With these guarantees, Thailand becomes the first country in Southeast Asia to provide full legal protection for same-sex couples, demonstrating how alignment with international human rights principles can coexist with domestic legal reform.[25] This policy shift strengthens the state's legitimacy in ensuring equality and shows a strong commitment to non-discriminatory legal protections.

This comparison illustrates that Thailand has integrated principles of gender equality and sexual diversity into its civil law system; meanwhile, Indonesia maintains a normative legal framework that is deeply rooted in the first principle of Pancasila, "Belief in the One and Only God". In terms of legal implications, same-sex couples in Thailand obtain legal certainty and state protection, whereas in Indonesia, they do not have legal recognition as a family unit and therefore do not enjoy the fundamental rights attached to the institution of marriage.[26]

2. THE INFLUENCE OF SOCIAL AND CULTURAL REALITIES ON THE ACCEPTANCE AND PRACTICE OF SAME-SEX MARRIAGE IN INDONESIA AND THAILAND AND ITS IMPACT ON LEGAL EFFECTIVENESS

Social and cultural realities play a decisive role in shaping how society understands sexual orientation and in defining the boundaries of acceptance toward same-sex couples. In Indonesia, the social structure is strongly influenced by religious and cultural values rooted in the first principle of Pancasila as the nation's ideology, namely "Belief in the One and Only God", which places heterosexual marriage as the only form of family considered legitimate, normal, and moral.[27] Because the validity of marriage is determined by religious law, religious values are deeply integrated into the collective beliefs of society. As a result, sexual orientation is not viewed merely as a private matter, but also as a public moral issue. This condition forms a societal opinion that generally rejects the existence of same-sex couples and places them in an unequal position. Social stigma, discrimination, and potential violence often occur even before any legal process takes place, meaning that same-sex couples face social rejection prior to obtaining access to legal protection.[28] This so-

23 Kusumawardani, A. P. D. (2024). Global norms vs local norms: A case study of the legalization of the marriage equality bill in Thailand. Doctoral dissertation, Universitas Muhammadiyah Yogyakarta.

24 Susmayani, U., Shaluhiyah, Z., Surjoputro, A. (2024). Literature review: Fenomena stigma terhadap homoseksual di Indonesia. Jurnal Ners, 8(2), 2169–2175. <https://doi.org/10.31004/jn.v8i2.42698>.

25 Aksorngarn, K. (2024). Legalization of same-sex marriage in Thailand: Society steps forward, but policymakers still hesitate. Beijing Law Review, 15, 80. <https://doi.org/10.4236/blr.2024.151006>.

26 Aksoy, C. G., Mishel, E. C. et al. (2023). Reducing sexual orientation discrimination: Experimental evidence on policy measures. Journal of Policy Analysis and Management. <https://doi.org/10.1002/pam.22447>.

27 Putra, A. M., Karlinah, S. (2018). The discourse of same-sex marriage on TV One. Journal of Journalism Studies, 1(2).

28 Wahyuni, Saifuddin. (2024). Persepsi mahasiswa terhadap normalisasi hubungan sesama jenis. Al-Tarbiyah:

cial reality further reinforces the national legal framework, which maintains a strictly heterosexual definition of marriage.

These social conditions also influence the legal–political dynamics in the formulation of state policies. The influence of religious groups, political elites, and cultural authorities makes efforts to advance reforms concerning the recognition of same-sex couples difficult to promote, both through legislative processes and judicial decisions.[29] Law enforcement officials and policymakers tend to maintain existing norms as they operate within a social environment that strongly adheres to conservative views on marriage and the family. As a result, the effectiveness of positive law becomes closely tied to traditional values that do not provide space for normative change.[30] In this context, the relationship between legal development and social dynamics is mutually influential, where changes in the legal framework may be shaped by prevailing social values, while at the same time, legal developments also contribute to shaping societal perspectives.

The social dynamics in Thailand show a more adaptive and inclusive tendency toward diverse sexual orientations. Although conservative groups still exist, Thai culture has long demonstrated flexibility toward varied gender identities and sexual expressions. LGBTQ+ representation is visible in everyday life through the entertainment industry, popular media, cabaret performances, and creative economic sectors, which together create safer and more supportive social spaces.[31] This visibility increases public familiarity with LGBTQ+ individuals and builds societal understanding that gender diversity is a natural part of social life. Social resistance to the recognition of same-sex couples is therefore less pronounced compared to countries with strongly conservative cultures.[32] This relatively open social reality forms an important foundation for legal reform because social norms evolved before legal norms were formalized.[33]

These supportive social conditions directly influence political dynamics and legislative policymaking in Thailand. When the Marriage Equality Act was enacted, public acceptance had already been shaped through long-term social interaction, allowing the legislative process to gain stronger societal legitimacy.[34] However, legal recognition alone does not resolve all challenges. Administrative inconsistencies remain, especially in public services such as civil registration, adoption procedures, identity documents, and access to state services.[35] Some government institutions still require procedural adjustments and human resource training to ensure implementation that aligns with equality principles established in the new law.[36] This shows that although Thailand has made significant progress in recognizing same-sex marriage, achieving full equality requires time,

Jurnal Ilmu Pendidikan Islam, 2(3), 294–305. <https://doi.org/10.59059/al-tarbiyah.v2i3.1269>.

29 Mos, M. (2020). The anticipatory politics of homophobia: Explaining constitutional bans on same-sex marriage in post-communist Europe. East European Politics. <https://doi.org/10.1080/21599165.2020.1733983>.

30 Pranata, T. D. (2015). Behavior and social realities of gay life in Samarinda City. Ejournal of Sociology, 3(3), 135–150.

31 Drabble, L. A., Wootton, A. R., Veldhuis, C. B., Riggle, E. D. B., Rostosky, S. S. et al. (2021). Perceived psychosocial impacts of legalized same-sex marriage: A scoping review of sexual minority adults' experiences. PLOS ONE, 16(5), e0249125. <https://doi.org/10.1371/journal.pone.0249125>.

32 Russell, S. T., Bishop, M. D., Fish, J. N. (2023). Expanding notions of LGBTQ+. Annual Review of Sociology, 49(1), 281–296. <https://doi.org/10.1146/annurev-soc-030420-012815>;

33 Lee, H. (2019). Changing attitudes toward same-sex marriage: A three-wave panel study. Political Behavior. <https://doi.org/10.1007/s11109-018-9463-7>.

34 Wang, J. (2022). Marriage equality for everyone? The business case and institutional effects of same-sex marriage legislation. Journal of Business Research. <https://doi.org/10.1016/j.jbusres.2022.02.022>;

35 Neviati, C. Z. (2018). The social reality of gender identity in same-sex relationships in Thailand (A qualitative descriptive study of gay and lesbian same-sex relationships in Thailand). Doctoral dissertation, Universitas Brawijaya.

36 Ofosu, E. K. (2019). Same-sex marriage legalization associated with reduced implicit and explicit antigay bias. Proceedings of the National Academy of Sciences. <https://doi.org/10.1073/pnas.1806000116>.

social adaptation, and stronger administrative frameworks that respond to legal reform.

The impact of social reality on the effectiveness of law in both countries becomes evident when examined through the issue of same-sex marriage. In Indonesia, conservative social norms and strong religious values rooted in the first principle of Pancasila shape the perception that marriage can only take place between a man and a woman.[37] This dominant belief fosters resistance to the recognition of sexual orientation diversity, making proposals to amend marriage legislation difficult to advance, as they are often viewed as conflicting with prevailing social morality. Consequently, lawmakers tend to maintain existing regulations, as they are considered to reflect the majority view of society, which upholds traditional values.[38] As a result, national law continues to exclude the recognition of same-sex marriage, despite a growing global trend toward the protection of LGBTQ+ rights.

Thailand, on the other hand, benefits from a more supportive social environment that enhances the effectiveness of its legal recognition of same-sex marriage. Growing social acceptance through popular culture, the arts, and public representation has made Thai society more familiar with diverse gender identities. This creates relatively safe social spaces for LGBTQ+ individuals and increases political responsiveness to their legal needs.[39] When the Marriage Equality Act was passed, public support had already created the social legitimacy necessary for successful implementation. By contrast, the primary challenge in countries that reject same-sex marriage lies in limited social acceptance. This condition is not unique to Indonesia but is also evident in other countries with similar social and religious characteristics, where resistance to LGBTQ+ rights is driven largely by prevailing societal attitudes rather than legal factors alone. Such conditions may create challenges in the implementation of equality and non-discrimination principles as emphasized in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which encourages states to eliminate discriminatory treatment within social and legal structures.[40] Nevertheless, Thailand continues to face administrative challenges such as adapting civil registration systems, adjusting public service procedures, and harmonizing policies across institutions.[41] These differences in culture, religion, and social construction are important comparative factors that determine the direction of legal development. Societies with open social norms tend to allow the law to evolve alongside social progress, while societies dominated by traditional values hinder legal transformation. This shows that the effectiveness of law depends not only on the substance of regulation but also on the social legitimacy and acceptance that support its implementation in everyday life.

CONCLUSION

The comparison of same-sex marriage regulation in Indonesia and Thailand shows that the effectiveness of law is strongly influenced by the interaction between normative frameworks, social values, and the cultural context of each country. In Indonesia, the marriage regulation under Law Number 1 of 1974 concerning Mar-

37 Lindsey, T. (2016). Indonesia: Law and society. Asian Journal of Comparative Law, 11(2), 225–240. <https://doi.org/10.1017/asjcl.2016.9>.

38 Crouch, M. (2019). Law and religion in Indonesia: The constitutional framework. Oxford Journal of Law and Religion, 8(3), 511–534. <https://doi.org/10.1093/ojlr/rwz015>.

39 Carpenter, C. S. (2021). Effects of access to legal same-sex marriage on marriage and health. Journal of Policy Analysis and Management. <https://doi.org/10.1002/pam.22286>;

40 Ko, N. Y. (2020). Associations of socially unfavorable attitudes toward homosexuality and same-sex marriage with suicidal ideation in Taiwanese people before and after same-sex marriage referendums. International Journal of Environmental Research and Public Health. <https://doi.org/10.3390/ijerph17031047>.

41 Punthiya, P., Bejrananda, T. (2022). Attitude, perception, and awareness of human rights and gender equality of LGBTQ community in Thailand. Doctoral dissertation, Maejo University.

riage reflects the values living within society and the principle of divinity in the first principle of Pancasila, namely "Belief in the One and Only God", which serves as an important basis in the formation of family law norms. These values form a construction of marriage understood as a union between a man and a woman, so that the existing legal regulation remains within the framework of religious and moral values widely embraced in society. Meanwhile, Thailand shows a different approach through legal reform that leads to the recognition of equal rights in marriage without discrimination based on sexual orientation. This change reflects the adaptation of law to more inclusive social dynamics, so that law develops along with increasing societal acceptance of sexual diversity. From a comparative perspective, the effectiveness of law is not only determined by legal norms, but also by the extent to which those norms obtain social legitimacy and conformity with values that exist in society. In Indonesia, family law is strongly influenced by the principle of divinity in the first principle of Pancasila, so legal development always considers dominant moral, religious, and cultural values. Meanwhile, in Thailand, high social acceptance of gender diversity supported by popular culture, arts, and public representation creates a more inclusive social environment that makes the enactment of the Marriage Equality Act obtain strong social legitimacy, and its implementation becomes more effective.

Authors' Contributions

Made Yussyta Wulandani conceptualized the research, formulated the legal issues, designed the methodology, collected and analyzed the legal materials, conducted the comparative and socio-legal analysis, interpreted the findings, and prepared the initial manuscript draft.

A.A. Istri Eka Krisna Yanti contributed to the analysis of marriage law aspects, participated in the development of the socio-legal framework, assisted in the interpretation of legal findings, and contributed to the refinement of the manuscript.

Dr. Kadek Agus Sudiarawan contributed to the research conceptualization and methodology, supervised the research process, participated in data interpretation, integrated the legal and social perspectives, and critically reviewed and revised the manuscript.

All authors approved the final version of the article.

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